IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

WRIT PETITION NO. 2470 OF 2005.

Shri Krishna E. Madamchetti .. Petitioner.

V/s.

Smt. Sudha P. Dangat ... Respondent.

Shri S. J. Rairkar for the petitioner.

Shri R.S.Datar for the respondent.

CORAM : V.C.DAGA, J.

DATED : 30.11.2005.

P.C. :

. Heard learned Counsel for the petitioner.

2. This petition is directerd against the concurrent finding of facts suffered by the petitioner, whereby both the Courts below were pleased to hold that the respondent- landlady has proved her bonafide need and passed decree for eviction against the petitioner.

3. Learned Counsel for the petitioner submitted that the landlady herself did not enter the witness box. She led evidence through her Power of Attorney Holder and, therefore, such evidence could not have been relied upon by the Courts below. He pressed into service judgment of the Apex Court in the case of **Janki Vashdeo Bhojwani vs.Indusind Bank Ltd.,**

(2005) 2 SCC 217 in support of his contention.

4. Per contra, learned Counsel appearing for the respondents submitted that even if evidence of the plaintiff is excluded and evidence of the defendant-petitioner is taken into account, in that event also finding recorded by the Courts below can be supported on the basis of admissions given by the petitioner in cross-examinatioin. He brought to my notice the clear-cut admission given by the petitioner-tenant that the plaintiff-respondent is in need of suit premises for her own use and occupation. This unequivocal admission in the cross-examination can sustain the judgment and decree passed by the trial Court and confirmed by the lower appellate Court. In this view of the matter, petition is dismissed in limine with no order as to costs.

5. At this stage, learned Counsel for the petitioner, after taking instructions from the petitioner, who is present in Court, seeks time to vacate the suit premises, subject to furnishing usual undertaking. Shri Datar, learned Counsel appearing for the respondent has no objection for grant of 6 months time subject to furnishing usual undertaking with further undertaking that he shall not create third party interest in the suit premises and he shall continue to pay agreed rent by way of occupation charges, so long as he does not vacate

the premises. Considering rival submissions, I feel period of six months would be reasonable subject to furnishing usual undertaking. Needless to mention that failure on the part of the petitioner to furnish usual undertaking within two weeks from today, it would be open for the respondent to execute the decree in accordance with law.

. In view of disposal of the petition, civil application is rejected being devoid of any substance.